

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Safeco Insurance Company of America

v.

Civil No. 11-cv-226-JL

EMC Mortgage LLC, etal.

ORDER

Plaintiff's Partially Assented to Motion to Declare Respondent Wayne Nolette Property Served is denied. Plaintiff Safeco Insurance Company of America, having located defendant Wayne Nolette and attempted to serve process on him, moved to declare Nolette properly served or, in the alternative, to permit service by publication (document no. 11). While the court sympathizes with the defendant's plight, the court has not found, nor been presented with, any authority that would permit it to declare a defendant properly served where the defendant has not (yet) disputed that service was proper. Safeco's motion to declare Nolette properly served is thus denied without prejudice. Because Safeco has been able to find Nolette, its motion to permit service by publication is also denied. See, e.g., Hugel v. McNell, 886 F.2d 1, 4 (1st Cir. 1989) (describing service by "publication as a last ditch effort to notify a missing party of an action against him" where "efforts to effect personal service" have failed).

SO ORDERED.

August 15, 2011



Joseph N. Laplante
United States District Judge

cc: James Ogorchock, Esq.
Courtney Herz, Esq.
Joseph Patrick Kennedy, Esq.